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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,569	07/11/2003	Frank Robert Nemirofsky	6555/53773	3771
22862	7590	12/22/2008	EXAMINER	
GLENN PATENT GROUP 3475 EDISON WAY, SUITE L MENLO PARK, CA 94025				DAGNEW, SABA
ART UNIT		PAPER NUMBER		
3688				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/618,569	NEMIROFSKY ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	SABA DAGNEW	3688	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 09 October 2008.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-12 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-12 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 11 July 2003 is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
     1. Certified copies of the priority documents have been received.  
     2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application
Paper No(s)/Mail Date _____.	6) <input type="checkbox"/> Other: _____ .

## DETAILED ACTION

### Status of Claims

This action is in reply to the amendment filed on 9<sup>th</sup> October 2008. Claims 1, 7 and 8 have been amended. Claims 1-12 are currently pending and have been examined.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-9, 11 and 12 rejected under 35 U.S.C. 103(a) as being unpatentable over Katz et al (US 6,055,513) in view of Franco (US 7, 257,552 B1)

With respect to claims 1 and 7 Katz teaches a system and a method enabling conditional delivery of commerce-related information, comprising:

receiving from a user an identification of a product or service (**Fig. 4, 140**, where “caller” reads on user, **Fig. 8, 280** teaches ID, **Col. 2, 44-47**, which teaches prompting to enter the “item number” reads on identification of product to identify the goods and service **and Col. 25, line 11-22**), wherein the product or service is the subject of a broadcast;

receiving from the user at least one condition under which the user desires to receive additional information relating to the product or service (**Fig. 7, 242** where

*teaches collecting inputs for up sale computation and 260 teaches user makes decision and Col. 18, lines 2-15 );*

*receiving a user identification corresponding to the user (Col. 21, lines 33-38, which teaches specific consumer identification such as user's Social Security number and Col. 22, lines 7-10, which teaches user identity obtained form the particular contact);*

*storing the identification of the product or service and the at least one condition in association with the user identification (Col. 9, lines 5-21, which teaches transaction data includes product (Col. 2, 44-47 contained item number) purchase information, billing information and consumer identification number )*

*after receiving additional information relating to the product or service, assessing whether the at least one condition is satisfied (Fig. 7, 242, Fig. 10 and Col. 26, lines 4-11, which teaches customer satisfaction with the goods and service incorporated in the decision criteria reads on assessing whether the at least the condition is satisfied ); and*

In addition to claim 7, Katz teaches additional limitation of claim 1, wherein a user account database storing use account information associated with plurality of users (*Fig. 6, 330 and Col. 9, lines 52-67 and Col. 10, line 1, which teaches database that contained consumer profile and credit card information* ) and messaging database storing at least one message in association with the product (*Col. 23, lines 40-50 which teaches a database that contain such as delivery status, inventory stats reads on a messages associated with a product* ).

Katz teaches the above elements as cited above, except conditionally providing the additional information to the user, if the at least one condition imposed by user is satisfied, deliver the message as to all user where the condition imposed by the users are satisfied scan the user account database to determine whether the at least one message satisfies the condition imposed by user.

Franco teaches conditionally providing the additional information to the user, if the at least one condition imposed by user is satisfied, deliver the message as to all user where the condition imposed by the users are satisfied scan the user account database to determine whether the at least one message satisfies the condition imposed by user (*Col. 24, lines 55-67 and Col. 25, lines 1-3, which teaches consumer imposed rules that satisfy consumer needs*). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to include a feature that allow consumer to outline his/her criteria as taught by Franco in the system of Katz since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

With respect to claim 2, Katz in view of Franco teaches all elements of claim 1. Furthermore, Katz teaches a method further comprising a transaction processing system operative to receive product orders from users (*Fig.4, 140, which teaches order transaction entered by Caller (user)*) and process payment transactions (*Fig. 5, 210, 212, where “billing” reads on processing payment and 214*) and .

With respect to claim 3, Katz in view of Franco teaches all elements of claim 1. Furthermore, Katz teaches a method further comprising a call center comprising at least one call station assisting a live agent to handle calls from users (***Fig. 3, 40 where teaches call center, 42, live operator, Col. 12, lines 39-44 and Col. 16, lines 23-31***) and .

With respect to claim 4, Katz in view of Franco teaches all elements of claim 1. Furthermore, Katz teaches a method further comprising:  
an interactive voice response system to receive and transmit data over a telecommunications network (***Col. 16, lines 52-54 and Col. 26, lines 38-40, where “website” reads on telecommunications network***)  
the interactive voice response system providing the interface by which users access the message management module (***Col. 27, lines 22-35, which teaches an interactive live response system***).

With respect to claim 5, Katz in view of Franco teaches all elements of claims 1 and 4. Furthermore, Katz teaches a method wherein the interactive voice response system includes automatic number identification (ANI) functionality, allowing identification of telephone numbers associated with incoming calls and wherein identified telephone numbers are used to identify users and retrieve user account information from the user account database(***Col. 9, lines 29-42, which teaches consumer identification number automatically supplied by (ANI)***).

With respect to claim 6, Katz in view of Franco teaches all elements of claim 1. Furthermore, Katz teaches a method wherein the at least one message is an electronic

coupon (**Fig. 9, and Col. 27, lines 16-21**, which teach electronic coupon provided to the user in a real time manner).

With respect to claims 8, Katz in view of Franco addressed in claims 1 and 4.

Additionally, Katz teaches a broadcast signal monitoring unit operative to detect message codes in a broadcast signal (**Fig. 9, Col. 17, lines 15-36**, which teaches shipping/tracking unit (monitoring unit) to check on shipping or delivery information (detecting message) **and Col. 27, lines 2-13**, where teaches the existence of the “product/service” reads on message).

With respect to claim 9, Katz in view of Franco teaches all elements of claim 8. Furthermore, Katz teaches a method wherein the broadcast signal is a television signal (**Col. 17, lines 23-27**, which teaches television for direct broadcast).

With respect to claim 12, Katz in view of Franco teaches all elements of claim 8. Furthermore, Katz teaches a method further comprising a user account database storing user account identifiers in association with at least one message delivery mode preference (**Fig. 6, 330**, external database contain “credit” reads on account and **Col. 23, lines 27-39**, which teaches a credit verification, credit authorization for the amount equal and available credit (account) **and Col. 7, lines 45-51**), and wherein the ad delivery module is operative to deliver the message to each user using the delivery mode specified in a corresponding user account (**Fig. 10, Col. 23, lines 40-50**, which teaches delivery time **and Col.27, lines 22-35**).

Claim10 is rejected under 35 U.S.C. 103(a) as being obvious over Katz et al (US 6,055,513).

With respect to claim 10, Katz in view of Franco teaches all elements of claim 8, including broadcasting through Internet access, cable, television, direct broadcast, satellite broadcast, e-mail facsimile, and voice mail or otherwise (**Col. 17, lines 23-27**). However, Katz does not explicitly teach radio signal, it would have been obvious to one ordinary skill in the art to modify Katz's invention by adding radio broadcasting signal in order to transmit advertisement message to a user.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1, 7 and 8 have been considered but are moot in view of the new ground(s) of rejection.

Applicant argued that Katz does not teach a user account database that contains user account information and that additionally stores at least one product identifier received from the user and at least one condition for receiving information associated with the product identifier. The examiner respectfully disagree with the applicant because Katz teaches a user account database that contains user account information **Fig. 6, 330**, external database contain "credit" reads on account and **Col. 23, lines 27-39**, which teaches a credit verification, credit authorization for the amount equal and available credit (account) **and Col. 7, lines 45-51**) and that additionally stores at least one product identifier received from the user and at least one condition for receiving information associated with the product identifier(**Col. 9, lines 5-21**, which

*teaches transaction data includes product (**Col. 2, 44-47** contained item number)  
purchase information, billing information and consumer identification number ).*

Applicant argued that Katz completely failed to teach a messaging database. However, the examiner respectfully disagree with the applicant, Katz teaches a messaging database storing at least one message in association with the product (**Col. 23, lines 40-50** which teaches a database that contain such as delivery status, inventory stats reads on a messages associated with a product )

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SABA DAGNEW whose telephone number is (571)270-3271. The examiner can normally be reached on 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James W. Myhre can be reached on 571-272-6722. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. D./  
Examiner, Art Unit 3688

/Raquel Alvarez/  
Primary Examiner, Art Unit 3688